



**Asheboro Planning Board
Asheboro City Hall (146 N. Church Street)**

Monday, June 6, 2016

7:00 PM

AGENDA

- I. Call to Order
- II. Approval of Minutes from May 2, 2016 meeting
- III. Review of Cases
- IV. Overview concerning recent changes to state law related to density credits/severable development rights when public right-of-way dedication is required
- V. Items Not on the Agenda
- VI. Adjournment

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**MEETING OF THE ASHEBORO PLANNING BOARD
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.
MONDAY, MAY 2, 2016
7:00 p.m.**

This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

Van Rich) - Chair
James Lindsey) - Vice Chair

Ritchie Buffkin)
Lynette Garner)
David Henderson) - Members Present
Thomas Rush)
Dave Whitaker)

John Evans, Assistant Community Development Division Director
Justin Luck, Zoning Administrator/Planner
Bradley Morton, Planning Technician/Deputy City Clerk
Trevor Nuttall, Community Development Division Director
Jeff Sugg, City Attorney

Three (3) citizens were present at this meeting.

I. CALL TO ORDER

Mr. Van Rich called the Asheboro Planning Board to order.

II. APPROVAL OF MINUTES FROM APRIL 4, 2016 MEETING

Mr. Rich inquired if there were any corrections to be made to the minutes of the April 4, 2016 regular meeting. There being no corrections, the minutes were approved as presented.

III. REVIEW OF CASES

Mr. Justin Luck informed the board of the zoning related cases that the City Council heard in April.

IV. RZ-16-04: REZONE PROPERTY LOCATED AT 322,324, AND 328 GREENSBORO STREET FROM R7.5 (Medium-Density Residential) TO OA6 (Office-Apartment)

Mr. John Evans gave a visual presentation of the proposed rezoning case affecting 322, 324, and 328 Greensboro Street. He stated that the rezoning request was to go from Medium-Density Residential (R7.5) to Office-Apartment (OA6) zoning. He stated that two (2) parcels were involved and gave their parcel identification numbers (7751945555 & 7751946436). He listed the current uses, surrounding zoning, and surrounding uses of the area. He stated that the properties were not in the Center City Planning Area (but Tier 2 was just across Greensboro Street), nor were they affected by any severe topographical issues or in any flood or watershed areas. He showed an aerial view as well as photographs of the properties from all directions. He stated that the Greensboro Street was a city maintained street which could be considered a collector street. Greensboro Street north of the property is considered a minor thoroughfare according to the Comprehensive Transportation Plan. He stated that the request would be a by-right zoning, meaning that any use permitted in the OA6 district would be allowed on the particular properties. He stated that the Land Development Plan (LDP) calls for urban residential and the Growth Strategy Map designates the properties in a primary growth area. He stated that OA6 was consistent with the urban residential designation of the LDP and that the location with respect to surrounding zoning supports OA6, therefore the staff recommends approval of the rezoning request.

Chairman Rich then inquired from the audience if there was anyone present to speak on the request. Ms. Vanessa Thompson, applicant, spoke to the board and stated that she put together the request and would answer any questions that they may have. The board had no questions at this time.

Mr. Dave Whitaker made a motion to approve the rezoning request and staff's consistency statement. Ms. Lynette Garner seconded the motion and the motion carried unanimously.

V. RZ-16-05: REZONE PROPERTY LOCATED AT 331 WATKINS STREET FROM B1 (Neighborhood Commercial) AND RA6 (High-Density Residential) TO RA6

Mr. Thomas Rush informed the board that the property owner was his Godmother and he wanted to make sure that no conflict of interest was present before they heard the case. Mr. Jeff Sugg inquired to Mr. Rush if he had a financial interest in the property. Mr. Rush informed Mr. Sugg and the board that he did not have a financial interest in this property. Mr. Sugg then relayed to the board that Mr. Rush should be permitted to act on the request, provided there was no objection from anyone in attendance. Mr. Rich, board chair, then inquired to the citizens in the audience if there was any opposition to Mr. Rush hearing the case. There was no opposition from the audience. The board then advised Mr. John Evans to begin the presentation.

Mr. Evans gave a visual presentation of the proposed rezoning case affecting 331 Watkins Street. He stated that the rezoning request was to go from Neighborhood Commercial (B1) and High Density Residential (RA6) to a single RA6 zoning district. He stated that one (1) parcel was involved and gave its parcel number (7761130704). He listed the surrounding zoning and surrounding uses of the area. He stated that the property has no topographic issues. He stated that Watkins Street and Dunlap Street are city maintained streets. He stated that no known history of a business has been at this particular property (based on staff's available information and the knowledge of the applicant) and that the dwelling is a legal nonconforming use. He stated that the LDP calls for neighborhood residential in this area. He also stated that the Growth Strategy Map designates the area as a primary growth area. He listed eight (8) supporting goals and policies and stated that no goals and policies were negative to the request. He stated that the request is consistent with the LDP designation and the property has always been used as a dwelling. He stated that it will allow investment into the residential property. He also stated that the street is better equipped for a residence and that there were no environmental factors affecting the property. He stated that considering those factors, staff's recommendation was to approve the rezoning request.

Chairman Rich then inquired from the audience if there was anyone present to speak on the request. Mr. Vernon Wilson, who was representing the owner for this request, stated the owners intent of the rezoning and was available for any questions the board had. The board had no questions for Mr. Wilson.

Ms. Lynette Garner made a motion to approve the rezoning request and staff's consistency statement. Mr. James Lindsey seconded the motion and the motion carried unanimously.

VI. RZ-16-06: REZONE PROPERTY LOCATED AT 112 AND 116 SUNRISE AVENUE AND 2029 VINCENT DRIVE FROM R10 (Medium-Density Residential) TO O&I (Office & Institutional)

Mr. Evans gave a visual presentation of the proposed rezoning case affecting 112 and 116 Sunrise Avenue as well as 2029 Vincent Drive. He stated that the rezoning request was to go from Medium Density Residential (R10) to Office and Institutional (O&I). He stated that three (3) parcels were involved and gave their parcel numbers (7763106759, 7763106913, and 7763104846). He gave the properties respective uses and stated that all surrounding uses were single-family residential uses and then gave the surrounding zoning, which was made up entirely of R10 zoning. He stated that the properties have no topographic issues. He stated that Sunrise Avenue is a city-maintained collector street and Vincent Drive is a city maintained local street. At this time he mentioned Vincent Drive having a pavement surface of approximately 13 feet in width. He showed an aerial map of the properties and mentioned that the current use is a church and that church parking and a single family dwelling is to west of the church. He showed the board photos of the properties from all directions and mentioned that all adjacent properties are used for single-family residential purposes except for a place of worship southeast of the property on Holland Street. He stated that the church, according to tax records, has been on the properties since 1960. He stated that any modifications to the church properties would require a Special Use Permit if it is located in a residential zoning district. He stated that the applicant was given this information and chose to go with a conventional zoning map amendment. He stated that the church purchased the single-family dwelling in 2015. He stated that the LDP calls for neighborhood residential in this area and is designated as a primary growth area on the Growth Strategy Map. He mentioned that if the properties were rezoned to O&I, the existing single family dwelling would become a legal nonconforming use. He mentioned five (5) goals and policies that supported the request. He then mentioned three (3) goals and policies that were negative to the request, including the neighborhood residential designation by the LDP, and also that the street network may not be adequate to support a full range of O&I uses. He then mentioned the lack of ability to review a site specific development plan to determine compatibility of the specific use and its design was a concern. He also mentioned that the request could be a possible spot zoning concern. He stated that

in light of the aforementioned analysis, staff recommends denial of the request. He stated that he would answer any questions the board had. The board had no questions.

Chairman Rich then inquired from the audience if there was anyone present to speak on the request. Mr. Ben Chavis, Pastor at Freedom Life Church of God, spoke on the request stating that the church use will continue to stay on the properties. He stated the likelihood of an expansion of parking and that he wants the zoning of the properties to reflect the uses present. He mentioned that adjacent neighbors of the properties are members of the church and they have no opposition to the request. He stated that he felt the church enhanced the neighborhood. He then stated if the board had questions he would answer them at this time. The board had no questions. At this time, Mr. Whitaker did mention a concern he had regarding the current infrastructure and the street widths. He felt that the streets were not adequate for an O&I zoning district.

Ms. Garner made a motion to recommend approval of the rezoning request. Mr. Thomas Rush seconded the motion and the motion carried with a vote of five (5) in favor and two (2) opposing. The opposing votes came from Mr. Whitaker and Mr. Henderson. Ms. Garner also made a motion to adopt the following consistency statement: Based on compliance with the Growth Strategy Map, the location of the property in proximity to industrial uses, the historical use of the property, and that no opposition was present from adjoining property owners, the approval of the rezoning request is in the public's interest and consistent with the Land Development Plan. Mr. Ritchie Buffkin seconded the motion and the motion carried with a vote of five (5) in favor and two (2) opposing. The opposing votes came from Mr. Whitaker and Mr. Henderson.

VII. RZ-16-07: REZONE PROPERTY LOCATED AT 159 SOUTH PARK STREET AND 420 HILL STREET FROM RA6 (High-Density Residential) TO OA6 (Office-Apartment) AND PROPERTY LOCATED AT 437 SUNSET AVENUE FROM RA6 AND B2 (General Commercial) TO B2

Mr. Evans gave a visual presentation of the proposed rezoning request affecting 159 South Park Street, 420 Hill Street, and 437 Sunset Avenue. He stated that the rezoning request was to go from High Density Residential (RA6) to Office-Apartment (OA6) for the properties located at 159 South Park Street and 420 Hill Street as well as from RA6 and General Commercial (B2) to a straight B2 for the property located at 437 Sunset Avenue. He gave the property owner/applicant information as McJed, Inc. and stated that Mr. Ben Morgan was representing the property owner/applicant for this case. He then mentioned that Mr. Morgan was not present and that he had informed Mr. Evans to proceed without him in the event he was absent. He listed the parcel numbers for each property (7751624365, 7751626400, 7751626653) and stated that the land uses were two (2) single family residences and a funeral home including a crematorium. He stated that the properties were located within Tier 1 (420 Hill Street) and Tier 2 (437 Sunset Avenue and 159 South Park Street) of the Center City Planning Area. He showed pictures of each property from all directions and mentioned that no known, significant topographic or environmental issues existed. He stated that Sunset Avenue and South Park Street are state-maintained minor thoroughfares and that Hill Street is a city maintained local street. He stated that the request includes rezoning for a portion of the parcel at 437 Sunset Avenue that is not currently zoned B2. There is a question concerning the actual zoning on a portion of this parcel, and despite staff's extensive research, the discrepancy (between the property's status as completely zoned B2 or B2/RA6) hasn't been resolved. He stated that all three (3) parcels were included in the City Activity Center per the Proposed Land Use Map of the LDP. He also stated that all three (3) parcels were designated as primary growth areas as per the Growth Strategy Map. He went over the goals and policies of each parcel. He stated that 437 Sunset Avenue had eight (8) goals and policies in favor and zero (0) negative to the request. He stated that 159 South Park Street has nine (9) goals and policies in favor and one (1) negative to the request. Mr. Evans also mentioned a negative checklist item for 159 South Park Street concerning infrastructure is due to the limited size of the parcel and limited on-street parking, limiting some uses standing on their own without reciprocal parking. He stated that 420 Hill Street has four (4) goals and policies in favor and five (5) negative to the request.

At this time Mr. Evans gave the following consistency statements for each property:

1. 437 Sunset Avenue: Due to the property's long-term commercial history, the location of the property on a commercial corridor, and no major environmental factors present, the rezoning request is consistent with adopted plans, reasonable, and in the public interest.

2. 159 South Park Street: Due to the transitional, mixed use character of South Park Street and the general area, the fact that the OA6 district still supports residential uses, and that there are no environmental factors, the rezoning request is consistent with adopted plans, reasonable, and in the public interest.

3. 420 Hill Street: The central small area plan emphasis is on preserving the character of residential neighborhoods. There is a potential of incompatible uses, especially without a site-specific development

plan. Hill Street is designated as a local street. In light of these factors, the rezoning request is not consistent with adopted plans, reasonable, and in the public interest.

After which, Mr. Evans stated that staff recommendations were as follows:

- 1. 437 Sunset Avenue** - Approve
- 2. 159 South Park Street** - Approve
- 3. 420 Hill Street** - Deny

He then asked the board if they had any questions for him. Mr. Henderson asked to see the street view photos again. Ms. Garner inquired on the adjoining use, to which Mr. Evans responded it is an undeveloped lot next to the property. She also inquired about sidewalks in that area, to which, Mr. Evans stated that there are sidewalks from the farmer's market up to a portion of Hayes Law Firm.

At this time, Chairman Rich acknowledging that no one was present to speak on the request asked for motions from the board. The board took to the following action:

1. Mr. Rush made a motion to approve the rezoning request at 437 Sunset Avenue based on staff's analysis and to adopt as the board's own consistency statement, the corresponding staff recommended statement. Ms. Garner seconded the motion and the motion carried unanimously.
2. Mr. Henderson made a motion to approve the rezoning request at 159 South Park Street based on staff's analysis and to adopt as the board's own consistency statement, the corresponding staff recommended statement. Ms. Garner seconded the motion and the motion carried unanimously.
3. Mr. Henderson made a motion to deny the rezoning request at 420 Hill Street based on staff's analysis and to adopt as the board's own consistency statement, the corresponding staff recommended statement. Mr. Henderson also mentioned that there was no parking in addition to the property being on a local street and in a primarily residential neighborhood. Ms. Garner seconded the motion and the motion carried unanimously.

VIII. ANNUAL REPORT CONCERNING PLANNING BOARD ACTIVITIES, EXPENDITURES, AND BUDGET ESTIMATES

Mr. Nuttall briefly went over the annual report proceedings and stated that in the planning board packets there is a report of all the cases heard within the fiscal year. He asked for the board's consent to forward the information to the city council. The board's consent was given. Mr. Sugg also asked to include in the correspondence that an appeal of the Board of Adjustment's decision on a previous variance case has been calendared for a hearing in August.

IX. ITEMS NOT ON THE AGENDA

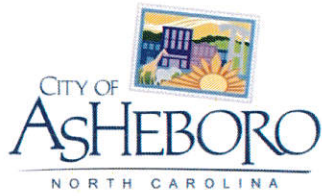
There were no items at this time.

X. ADJOURNMENT

There being no further business to discuss, Mr. Rich declared the meeting adjourned.

Bradley Morton, Secretary, Planning Board

Van Rich, Planning Board Chairman



Overview concerning recent changes to state law related to density credits/severable development rights when public right-of-way dedication is required

Overview of statewide legislation related to density credits/severable development rights when public right-of-way dedication is required by Comprehensive Transportation Plan

Session Law 2015-246 requires a zoning ordinance to provide density credits or severable development rights when rights-of-way are dedicated pursuant to an adopted Comprehensive Transportation Plan. Previously, such credits were permitted but not required. The applicable part of the session law is below:

ZONING DENSITY CREDITS SECTION 16. G.S. 160A-381(a) reads as rewritten:

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

G.S. 136-66.10 (the applicable section in the City of Asheboro's case) reads as follows:

Dedication of right of way under local ordinances.

(a) Whenever a tract of land located within the territorial jurisdiction of a city or county's zoning or subdivision control ordinance or any other land use control ordinance authorized by local act is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2, a city or county zoning or subdivision ordinance may provide for the dedication of right of way within that corridor pursuant to any applicable legal authority, or:

(1) A city or county may require an applicant for subdivision plat approval or for a special use permit, conditional use permit, or special exception, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right of way within such corridor if the city or county allows the applicant to transfer density credits attributable to the dedicated right of way to contiguous land owned by the applicant. No dedication of right of way shall be required pursuant to this subdivision unless the board or agency granting final subdivision plat approval or the special use permit, conditional use permit, special exception, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in the local ordinance.

(2) If a city or county does not require the dedication of right of way within the corridor pursuant to subdivision (1) of this subsection or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to a land use control ordinance authorized by local act elects to dedicate the right of way, the city or county may allow the applicant to

transfer density credits attributable to the dedicated right of way to contiguous land that is part of a common development plan or to transfer severable development rights attributable to the dedicated right of way to noncontiguous land in designated receiving districts pursuant to G.S. 136-66.11.

(3) Units of local government that require or accept right of way dedications under this subsection shall notify the applicant and the property owner when the local government begins review of or negotiations for a right of way dedication and associated density credit transfer, whichever first occurs. If the property owner is not the applicant, then the property owner shall be given notification of right of way dedications and any related density credit transfers under this subsection. The notification shall be sent to the last known address for the owner and shall include a copy of this section and any local ordinances, policies, or procedures governing the calculation and application of the density credit transfer.

(b) When used in this section, the term "density credit" means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the terms of a zoning and/or subdivision ordinance, and/or other land use control ordinance authorized by local act, expressed in dwelling unit equivalents or other measures of development density or intensity or a fraction or multiple of that potential that may be transferred to other portions of the same parcel or to contiguous land in that is part of a common development plan. (1987, c. 747, s. 7, 1989, c. 595, s. 4; 2014-108, s. 8(a).)

During the regular Planning Board to be held on Monday, June 6, 2016, staff will be presenting additional detail on how this statewide law may affect the determination of density or intensity of development when dedication of public right-of-way is required pursuant to the City's Comprehensive Transportation Plan (CTP). These provisions may affect how density and intensity is determined when additional public right-of-way on existing roadways is required or when dedication of new public right-of-way on roadways identified as future streets by the CTP is required.

G.S. 136-66.11 gives the City the option to issue severable development rights. It has been determined that this option is inapplicable to the City's situation, so this is not being included in the overview.

No specific text amendments to the zoning or subdivision ordinance will be presented during the June 6, 2016 meeting, but will be presented to the Planning Board at a later date.